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SURFACE TRANSPORTATION BOARD

WRITER'S E-MAIL ADDRESS
thynes@sidley.com

December 29, 2000

Mr. Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423-0001

Dear Mr. Williams:

I have enclosed an original and one counterpart of the document described below, to be recorded pursuant to Section 11301 of Title 49 of the U.S. Code.

This document is an Assumption Agreement, dated December 14, 2000.

The names and addresses of the parties to the document are as follows:

BORROWER:

Canadian Pacific Railway Company
Gulf Canada Square, Suite 500
401 - 9th Avenue SW
Calgary, Alberta T2P 4Z4

LENDER:

Kreditanstalt für Wiederaufbau
Palmengartenstrasse 5-9
D 60325 Frankfurt am Main
Germany
Attention: Department KIIC

SIDLEY & AUSTIN

WASHINGTON, D.C.

Mr. Vernon A. Williams
December 29, 2000
Page 2

A fee of \$26.00 is enclosed. Please return the original and any extra copies not needed by the Board for recordation to the person hand-delivering the documents.

A short summary of the document to appear in the index follows:

Assumption Agreement dated as of December 14, 2000, between Canadian Pacific Railway Company ("BORROWER") and Kreditanstalt für Wiederaufbau ("LENDER"), pertaining to Loan Agreement dated July 24, 2000.

Sincerely,

Terrence M. Hynes/AEH
Terrence M. Hynes

Enclosures

ASSUMPTION AGREEMENT

RECORDATION NO. 230174 FILED

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SURFACE TRANSPORTATION BOARD

THIS AGREEMENT is made as of December 14, 2000.

BETWEEN:

KREDITANSTALT FÜR WIEDERAUFBAU, a corporation under German public law (the "**Lender**")

- and -

CANADIAN PACIFIC RAILWAY COMPANY, a corporation subsisting under the federal laws of Canada ("**CPRC**")

WHEREAS the Lender and 3517021 Canada Inc. (the "**Borrower**") have entered into a loan agreement dated as of July 24, 2000 (the "**Loan Agreement**");

AND WHEREAS the Borrower and CPRC have entered into the Security Documents (as such term is defined in the Loan Agreement) with or in favour of the Lender;

AND WHEREAS effective the date of this Assumption Agreement, the Borrower has dissolved pursuant to the provisions of the *Canada Business Corporations Act* and, incidental to such dissolution, CPRC, as the sole shareholder of the Borrower, assumed all of the liabilities, contracts, disabilities and debts of the Borrower and all of the Borrower's property, rights, privileges and franchises were transferred to CPRC pursuant to the federal laws of Canada;

AND WHEREAS CPRC possesses all of the property, rights, privileges and franchises and is subject to all of the liabilities, contracts, disabilities and debts of the Borrower;

NOW THEREFORE in consideration of the mutual obligations expressed in this Assumption Agreement and for other consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

ARTICLE 1 – INTERPRETATION

- 1.01 Each word and phrase defined in the Loan Agreement used herein and which are not defined herein have the respective meanings assigned to them in the Loan Agreement.
- 1.02 The division of this Assumption Agreement into articles and sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Assumption Agreement. Unless the context otherwise requires, reference to an Article, Section, Subsection or Exhibit refer to the applicable article, section, subsection or exhibit to this Assumption Agreement.

- 1.03 In this Assumption Agreement, where the context so requires, words (including defined terms) in the singular include the plural and *vice versa*, and words in one gender include all genders.
- 1.04 Each reference in this Assumption Agreement to any agreement (including this Assumption Agreement and any other defined term that is an agreement) shall be construed so as to include such agreement (including any attached schedules) and each amendment, supplement, other modification, amendment and restatement, novation and replacement of it made at or before the time in question.

**ARTICLE 2 – AGREEMENT OF CPRC TO BE
BOUND BY LOAN AGREEMENT**

- 2.01 From and after the date of this Assumption Agreement, CPRC agrees to pay all liabilities and debts, and assume, observe, perform and discharge all of the covenants, liabilities and other obligations of any kind whatsoever of the Borrower under the Loan Agreement and the Note as if CPRC had originally been named as the Borrower under the Loan Agreement and the Note.
- 2.02 This Assumption Agreement shall be deemed to be a Loan Document for the purposes of the Loan Agreement.
- 2.03 The general security agreement executed and delivered by CPRC to the Lender pursuant to Section 5.01 hereof shall be deemed to constitute a Security Document for the purposes of the Loan Agreement.

**ARTICLE 3 – TERMINATION OF THE GUARANTEE
AND THE LEASES**

- 3.01 The parties hereby acknowledge that upon the dissolution of the Borrower and the execution by CPRC of this Assumption Agreement that (a) the Guarantee and the Leases have been terminated, (b) with respect to the Leases, all rights of the Borrower in and to the Equipment has been assigned and transferred to CPRC, (c) with respect to the Guarantee, the obligations of CPRC thereunder have merged with the obligations of CPRC hereunder and (d) references to the Guarantee or the Leases, and to CPRC in its capacity as Guarantor under the Guarantee or as lessee under the Leases, in the Loan Agreement shall be disregarded.

ARTICLE 4 – CONFIRMATIONS OF CPRC

- 4.01 CPRC confirms to the Lender that (a) the recitals to this Assumption Agreement are true and accurate in all material respects, (b) CPRC has assumed all of the obligations of the Borrower under the Loan Documents to which the Borrower was party in replacement of CPRC's obligations under the Guarantee, (c) the Liens in the Collateral created under the Lender's Security secure CPRC's obligations under each Loan Document assumed hereby, (d) there is no Material Adverse Effect, (e) upon the wind-up of the Borrower into CPRC effective this date and thereafter (by virtue of concurrent filings of the general security agreement executed by CPRC and delivered to the Lender pursuant to Section 5.01 below with the Registrar General of Canada

and with the U.S. Surface Transportation Board) the Lender is entitled to the benefits of Section 106(5) of the *Canada Transportation Act* and Section 1168 of the U.S. Bankruptcy Code with respect to the Equipment and (f) the representations and warranties made by CPRC in the Guarantee are true and correct in all material respects as of the date hereof, the necessary changes being made to give effect to this Assumption Agreement.

ARTICLE 5 – SECURITY

- 5.01 To further secure the due payment and performance of CPRC's obligations under each Loan Document assumed hereby, CPRC shall deliver a general security agreement creating a security interest in the Collateral in substantially the same form as that previously delivered by the Borrower to the Lender pursuant to Section 6.1(a) of the Loan Agreement, modified to give effect to this Assumption Agreement, except that Section 4.06 of the previously delivered form will be deleted in its entirety from the General Security Agreement to be delivered under this Section 5.01 and replaced with the following:

"The Debtor shall not amalgamate, merge, enter into a statutory arrangement or consolidate with any other person, continue its corporate existence under the laws of any other jurisdiction (other than Canada or any province thereof), wind-up or dissolve or pass any resolution or take any other steps in connection with any of the foregoing, except for an amalgamation, merger, arrangement or consolidation of the Debtor with any of its subsidiaries or affiliates, each of which is incorporated under the federal laws of Canada or any province thereof, (a "Reorganization") and so long as following such Reorganization (a) the resulting, surviving or transferee entity (the "Merged Entity") is liable to pay all liabilities and debts, and observe, perform and discharge all of the covenants, liabilities and obligations of every kind whatsoever of the Debtor under the Loan Documents to which the Debtor is party as if the Merged Entity had originally been named in each such Loan Document in the place and stead of the Debtor, (b) all or substantially all of its undertaking, property and assets would become the property of the Merged Entity, (c) the Security Interests secure the Merged Entity's obligations under the Security Documents to which the Debtor was party, (d) there is no Material Adverse Effect and (e) the Secured Party shall be entitled at all material times to the rights under Section 106(5) of the *Canada Transportation Act* and Section 1168 of the U.S. Bankruptcy Code and, if the Debtor is operating more than 10% of the Equipment in Mexico the same such protection in Mexico. Upon request from the Secured Party the Merged Entity shall execute such agreements, documents and instruments and take such actions (including registrations with the U.S. Surface Transportation Board and the Registrar General of Canada, publication in the Canada Gazette and delivery of legal opinions from the Debtor's counsel) as the Secured Party may reasonably require in order to preserve, perfect and protect the Security Interests."

- 5.02 CPRC shall Register or cause to be Registered the general security agreement delivered to the Lender pursuant to Section 5.01 and take such other actions as may be necessary or desirable to perfect, preserve and protect the Security created thereby and its priority and ensure that the Lender is entitled to the benefits of Section 106(5) of the *Canada Transportation Act* and Section 1168 of the U.S. Bankruptcy Code with respect to the Equipment.

ARTICLE 6 – CONDITIONS

- 6.01 Contemporaneously with the execution and delivery of this Assumption Agreement CPRC shall deliver to the Lender all of the following in form and substance satisfactory to the Lender acting reasonably:
- (a) a Certificate from CPRC as to incumbency of its Senior Officers attaching true copies of (i) any amendments to the articles of CPRC not included in the copy of the articles of CPRC delivered to the Lender pursuant to Section 5.1(a)(iii) of the Loan Agreement, (ii) any amendments to the by-laws of CPRC not included in the copy of the by-laws delivered to the Lender pursuant to Section 5.1(a)(iii) of the Loan Agreement and (iii) any additional necessary corporate action taken by CPRC to authorize the execution, delivery and performance of this Assumption Agreement and each agreement, document and instrument delivered pursuant hereto and the consummation of the transactions contemplated hereby;
 - (b) a certificate of compliance with respect to CPRC for its jurisdiction of incorporation;
 - (c) this Assumption Agreement, and each other agreement, document and instrument required to be delivered pursuant hereto, duly executed by CPRC;
 - (d) evidence that all Registrations (other than publication in the Canada Gazette of the notice of deposit of the general security agreement delivered by CPRC to the Lender pursuant to Section 5.01 above with the Registrar General of Canada under the *Canada Transportation Act*) and other actions as may be necessary or desirable to perfect, preserve and protect the Security and its priority and ensure that the Lender is entitled to the benefits of Section 106(5) of the *Canada Transportation Act* and Section 1168 of the U.S. Bankruptcy Code with respect to the Equipment have been effected; and
 - (e) opinions from the Borrower's Counsel addressed to the Lender and the Lender's legal counsel in such forms as the Lender may reasonably require.


ARTICLE 7 – GENERAL

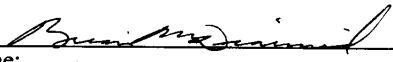
- 7.01 CPRC will promptly reimburse to the Lender for all reasonable out-of-pocket fees, costs and expenses incurred and disbursements made by the Lender (including the reasonable fees and out-of-pocket expenses of the Lender's Counsel on a solicitor and client basis) in connection with the review, preparation, execution, delivery and Registration of this Assumption Agreement and the agreements, documents and instruments referred to herein.
- 7.02 CPRC shall, forthwith and from time to time on request from the Lender, execute or cause to be executed all such ancillary agreements, documents and instruments and do or cause to be done all such other matters and things which in the opinion of the Lender are reasonably necessary or advisable to give effect to this Assumption Agreement and the agreements, documents and instruments delivered pursuant hereto.

- 7.03 This Assumption Agreement shall be governed by, and interpreted in accordance with, the laws in force in the Province of Ontario, including the federal laws of Canada applicable therein, (excluding any conflict of laws rule or principle which might refer such construction to the laws of another jurisdiction). Such choice of law shall, however, be without prejudice to or limitation of any rights available to the Lender under the laws of any jurisdiction where Collateral may be located.
- 7.04 The provisions of Section 10.13 of the Loan Agreement shall be incorporated herein by reference and shall take effect with respect to this Assumption Agreement, *mutatis mutandis*.
- 7.05 If any provision of this Assumption Agreement is determined to be invalid or unenforceable by a court of competent jurisdiction from which no further appeal lies or is taken, that provision shall be deemed to be severed therefrom, and the remaining provisions of this Assumption Agreement shall not be affected thereby and shall remain valid and enforceable.
- 7.06 This Assumption Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which taken together shall be deemed to constitute one and the same instrument, and it shall not be necessary in making proof of this Assumption Agreement to produce or account for more than one such counterpart. Delivery of an executed signature page of this Assumption Agreement by facsimile transmission shall be effective as delivery of a manually executed counterpart hereof.

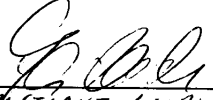
IN WITNESS WHEREOF the parties have executed this Assumption Agreement as of the date first written above.

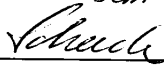
CANADIAN PACIFIC RAILWAY COMPANY

By: 
Name: (Signed) Robert B. Hodgins
Title: Vice-President and Treasurer

By: 
Name: (Signed) B. R. McDiarmid
Title: Assistant Treasurer

KREDITANSTALT FÜR WIEDERAUFBAU

By: 
Name: CHRISTIANE LAIRACH
Title: VICE PRESIDENT

By: 
Name: MONIKA SCHENCK
Title: SENIOR PROJECT MANAGER